

**REMARKS/ARGUMENTS**

Upon entry of the above amendment, claims 10-15, 17 and 19 will have been amended, claims 21-26 have been submitted for consideration by the Examiner, and claims 10-26 thus remain pending for consideration by the Examiner.

In view of the above amendment and the following remarks, Applicant respectfully requests reconsideration of the outstanding rejections of all the claims pending in the present application. Such action is respectfully requested and is believed to be appropriate and proper.

Initially, Applicant would like to express his appreciation to the Examiner for the detailed Official Action provided. Applicant further notes with appreciation the Examiner's acknowledgment of Applicant's Information Disclosure Statement filed in the present application on January 6, 2006, as evidenced by the return of the initialed and signed PTO-1449 Form, and for consideration of the documents cited in the Information Disclosure Statement.

In the outstanding Official Action, the Examiner addressed the Information Disclosure Statement filed on January 10, 2006, and asserted that it fails to comply with the provisions of 37 C.F.R. § 1.97, 1.98 and MPEP § 609. Accordingly, the Examiner did not consider the information referred to therein on the merits.

Applicant respectfully submits that the Examiner's action is incorrect and the Examiner's characterization of the Information Disclosure Statement filed on January 10, 2006, is also incorrect.

In particular, the Information Disclosure Statement filed in the present application on January 6, 2006 (not January 10, 2006) clearly and unambiguously identifies the

present application. However, what the Examiner is apparently referring to is the Application Number and Applicant on the PTO-1449 Form attached thereto. While these items are, due to an inadvertent typographical error, incorrect, the Attorney Docket Number is correct and the PTO-1449 Form is attached to a properly identified Information Disclosure Statement which itself is identified in a Petition To Withdraw Application from Issue together with a Request for Continued Examination (RCE).

Accordingly, since the basis for the filing and granting of the Petition and for filing the RCE is the Information Disclosure Statement and the Information Disclosure Statement properly identifies the present application, it is respectfully submitted that irregardless of the minor typographical error in the PTO-1449 Form, the Information Disclosure Statement filed on January 6, 2006, is in compliance with all the appropriate regulations and the references cited therein should be considered. The mere fact that one page of a submission has an incorrect application number, since the proper application is clear from all the other papers to which the one page is attached, and since in fact the PTO-1449 Form is in the file of the correct application, all the documents therein should be considered by the Examiner.

Yet additionally, Applicant notes that the majority of the references cited by the Examiner on the 849 Form are, in fact, those documents cited by Applicant on the above-noted PTO-1449 Form. Thus additionally, there is no reason for the Examiner to refuse to consider the documents cited in the Information Disclosure Statement of January 6, 2006.

Accordingly, reconsideration of the Examiner's position and consideration of each of the above-noted as yet unconsidered documents is respectfully requested and is believed to be appropriate.

Moreover, Applicant respectfully directs the Examiner's attention to a further Information Disclosure Statement filed in the present application on January 12, 2006. This further Information Disclosure Statement brought yet additional references to the Examiner's attention. However, the Examiner has not indicated consideration of any of the documents properly cited therein. Accordingly, Applicant respectfully request that the Examiner consider and indicate such consideration in the present application also with respect to the Information Disclosure Statement filed on January 12, 2006.

In spite of the above-set forth reasons for the entry and consideration of the Information Disclosure Statement filed in the present application on January 6, 2006, Applicant further notes that should the Examiner maintain his position and determine that it is necessary to charge a fee for consideration for the above-noted Information Disclosure Statement, Applicant hereby authorizes the Examiner to charge such fee to the deposit account No. 19-0089. However, as noted above, Applicant submits that no fee is appropriate in the present application.

Turning to the merits of the action, the Examiner has rejected claims 10-20 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Without in any way agreeing with rejection asserted by the Examiner, by the present Response, Applicant has amended claims 1-15, 17 and 19 to further clarify the scope of the invention.

In setting forth the rejection, the Examiner states that "it is unclear what characteristics of the first or the second terminal are contributing to making each being able or unable to access the home page". In this regard, Applicant notes that, for example, the first terminal apparatus is capable of accessing the home page provided by the server apparatus, and the second terminal apparatus is incapable of accessing the home page provided by the server apparatus and has a capability of storing predetermined media data transmitted from the server apparatus, as is now even more fully and explicitly set forth in the claims.

In the rejection, the Examiner also states that "it is unclear what is the meaning of 'unrelated', does it mean separate components or one entity, remote entities, two components with no direct communication, with wireless communication, with remote communication, etc". In this regard, Applicant notes (and has amended the claims to clearly recite) that the first terminal apparatus and the second terminal apparatus are distinct from each other. Thus, Applicant respectfully requests that the Examiner withdraw this rejection.

The Examiner has rejected claims 10-20 under 35 U.S.C § 103(a) as being unpatentable over TEIJI (JP 11-189528) in view of ICHIRO et al. (JP 2000-032429) or SEKI (JP 11-136365).

As noted above, Applicant has amended claims 10-15, 17 and 19 for the Examiner's consideration. Applicant respectfully traverses the above rejections based on pending claims 10-26 and will discuss the rejection with respect to the pending claims in the present application, as will be set forth hereinbelow.

Applicant's claims 10-16 relate to a server apparatus which is selectively connected to a first terminal apparatus and a second terminal apparatus. The first terminal apparatus (such as, but not limited to, for example, PC 20 or cellular telephone 30) has a capability of accessing a home page provided by the server apparatus. The second terminal apparatus (such as, but not limited to, for example, information receiver 50 that is configured to receive downloaded media data) is incapable of accessing the home page provided by the server apparatus and has a capability of storing predetermined media data transmitted from the server apparatus. It is noted that the first terminal apparatus and the second terminal apparatus are distinct from each other. The server apparatus comprises a receiver that receives a request from the first terminal apparatus having the capability of accessing the home page. The request is input at the first terminal via the home page provided by the server apparatus. The request includes information regarding the predetermined media data (which in a non-limiting example, can be music data) and information regarding the second terminal that is incapable of accessing the home page. The server apparatus includes a controller, which transmits a notification to the second terminal apparatus that is incapable of accessing the home page, based on the received request. The notification includes a value representing a size of the predetermined media data. The server apparatus receives a response to the notification from the second terminal apparatus, and transmits the predetermined media data to the second terminal apparatus when the response indicates that the second terminal apparatus is able to store the predetermined media data. Claims 19-20 recite a related method.

Applicant's claims 17-18 relate to a server apparatus which is selectively connected to at least one of a first terminal apparatus and a second terminal apparatus, in which the first terminal apparatus and the second terminal apparatus are distinct from each other. The first terminal apparatus has a capability of accessing a home page provided by the server, while the second terminal apparatus is incapable of accessing the home page and is capable of storing predetermined media data transmitted from the server apparatus. The server apparatus comprises a receiver that receives a request via the home page from the first terminal apparatus for the predetermined media data to be transferred to the second terminal apparatus. The server apparatus includes a controller that determines whether the second terminal apparatus has sufficient storage space to store the requested predetermined media data. When the controller determines that the second terminal apparatus has sufficient space to store the requested predetermined media data, the controller controls the transfer of the requested predetermined media data to the second terminal apparatus.

The combination of features recited in each of Applicant's claims, particularly in independent claims 10, 17 and 19, are not disclosed nor rendered obvious by any proper combination of TEIJI and ICHIRO et al. or SEKI as asserted by the Examiner. In particular, as will be set forth herein below, the combination of features recited in each of Applicant's claims are clearly patentable over the Examiner's asserted combination.

In direct contrast to the above-noted features of Applicant's recited invention, Applicant submits that TEIJI relates to a data contents delivery system in which a satellite broadcast transmitting side transmits, to the satellite broadcast receiving

facilities 12, television program data, data utilized for a GUI and identification data. A user at the contents receiving facilities 18 (facsimile 18A or a personal computer 18B) uses the satellite broadcasting receiving facilities 12 for instructing a contents delivery side to transmit contents to the contents receiving facilities 18 (the facsimile 18A or the personal computer 18B). The contents delivery facilities 18 receives, from the contents receiving facilities 12, the instruction and transmits data contents to the facsimile 18A or to the personal computer 18B, based on the received instruction.

Applicant submits that TEIJI does not contain any disclosure with respect to a second terminal apparatus that is incapable of accessing the home page provided by the server apparatus and has a capability of storing predetermined media data transmitted from the server apparatus. Applicant submits that TEIJI merely discloses, as a receiving device of data contents, the facsimile 18A and the personal computer 18B. Applicant submits that the facsimile 18A does not correspond to the second terminal apparatus recited in the pending claims, as the facsimile 18A cannot store the predetermined media data, although the facsimile 18A appears to be incapable of accessing the home page.

In this regard, paragraph [0036] of TEIJI states that the facsimile 18A can receive text data or still image data as any facsimile apparatus, but does not disclose that 18A can receive media data. Further, the Examiner's attention is respectfully directed to the types of data that can be transmitted to the fax or to the PC of TEIJI. The contents that can be received by the facsimile are only text data and still image data as any ordinary fax machine. In direct contrast, the data contents that can be

received using the PC includes software programs, text data, still image data, video data, voice data, which are transmitted as e-mail attachments.

Accordingly, neither the facsimile 18A nor the personal computer 18B can be considered the second terminal apparatus as defined in Applicant's claims. Applicant submits that the personal computer 18B also does not correspond to the second terminal apparatus recited in the pending claims, as the personal computer 18B is capable of accessing the home page. Thus, Applicant submits that TEIJI does not disclose or even suggest a second terminal apparatus as recited in the pending claims.

Thus, Applicant also submits that TEIJI does not disclose a server apparatus which is connected to the second terminal apparatus that is incapable of accessing the home page provided by the server apparatus and having a capability of storing predetermined media data transmitted from the server apparatus.

Applicant also submits that TEIJI does not disclose a server apparatus which receives a request from the first terminal apparatus, that has the capability of accessing the home page, the request being input at the first terminal via the home page provided by the server apparatus, the request including information regarding predetermined media data and information regarding a second terminal that is incapable of accessing the home page, at least because TEIJI does not disclose any terminal apparatus that is incapable of accessing the home page provided by the server apparatus, as recited in the pending claims.

According to the teachings of TEIJI, either the PC or the fax can be specified at the TV display and in accordance with whether the PC or the fax is specified, appropriate data is transmitted. To specify the PC, an e-mail address is input, and to



specify the fax, a fax number is input. In the alternative, the fax number and e-mail address can be pre-stored. However, TEIJI does not disclose a server that receives a request from the first terminal that is input at the first terminal by the home page and where the request includes information regarding the predetermined media data and information regarding the second terminal. If the Examiner persists in the position that this explicitly recited feature of Applicant's is disclosed by TEIJI, he is respectfully requested to direct Applicant's attention to the appropriate portion of the TEIJI disclosure.

Similarly, Applicant submits that TEIJI also does not disclose a server apparatus which transmits a notification to the second terminal apparatus that is incapable of accessing the home page, the notification including a value representing a size of the predetermined media data, based on the received request, and receives a response to the notification from the second terminal apparatus that is incapable of accessing the home page, as TEIJI fails to disclose or even suggest a second terminal apparatus as recited in the pending claims.

Further, Applicant submits that TEIJI does not disclose a server apparatus which transmits the predetermined media data to a second terminal apparatus that is incapable of accessing the home page when the response indicates that the second terminal apparatus not having the capability of accessing the home page can store the predetermined media data.

Thus, the pending claims are clearly distinguished over TEIJI.

Applicant notes that ICHIRO et al. relates to an information receiving apparatus. Applicant submits that ICHIRO et al. does not contain any disclosure directed to the

second terminal apparatus that is incapable of accessing a home page provided by a server apparatus and that has a capability of storing predetermined media data transmitted from the server apparatus. Rather, ICHIRO et al. merely discloses receiving facilities 3 including storage 3, monitor 4, and remote controller 64, as shown in Fig. 1 of ICHIRO et al. A user operates the remote controller watching the monitor 4 for downloading audio data (paragraph [0032], Fig. 4(b) shows the download button 28 as it appears on the monitor 4 and stores the downloaded audio data in the storage 3 (paragraph [0022]). Thus, Applicants submits that ICHIRO et al. merely discloses receiving facilities that have a capability of accessing a home page provided by a server apparatus as well as a capability of storing predetermined media data transmitted from the server apparatus.

Applicant submits that ICHIRO et al. does not disclose a server apparatus which is connected to the second terminal apparatus which is incapable of accessing the home page provided by the server apparatus and having a capability of storing predetermined media data transmitted from the server apparatus.

Applicant submits that ICHIRO et al. also does not disclose a server apparatus which receives a request from the first terminal apparatus, which has the capability of accessing the home page, the request being input at the first terminal via the home page provided by the server apparatus, the request including information regarding the predetermined media data and information regarding the second terminal that is incapable of accessing the home page, since ICHIRO et al. does not contain any disclosure about a second terminal apparatus, let alone any disclosure about a second

terminal apparatus that is incapable of accessing the home page provided by the server apparatus.

Similarly, Applicant submits that ICHIRO et al. does not disclose a server apparatus which transmits a notification to a second terminal apparatus that is incapable of accessing the home page, in which the notification includes a value representing a size of the predetermined media data, based on the received request, and receives a response to the notification from the second terminal apparatus that is incapable of accessing the home page.

Further, Applicant submits that ICHIRO et al. does not disclose a server apparatus which transmits the predetermined media data to the second terminal apparatus that is incapable of accessing the home page when the response indicates that the second terminal apparatus that is incapable of accessing the home page can store the predetermined media data.

In setting forth the rejection, the Examiner asserted that ICHIRO et al. discloses determining whether the second terminal apparatus has sufficient storage data to store the requested predetermined media data. Applicant respectfully submits that the Examiner is incorrect. ICHIRO et al. merely deals with the generic concept of download failure and does not specifically relate to determination of sufficient space to store a data amount being transferred or downloaded. ICHIRO et al. discriminates "whether or not recording of recording data going to be supplied is possible and controlling the execution of data supply depending on the results of discrimination". For this additional reason, Applicant submits that the Examiner's rejection is inappropriate.

Thus, Applicant submits that even if one attempted to combine the teachings of TEIJI and ICHIRO et al. in the manners suggested by the Examiner, such a combination would fail to render Applicant's invention obvious, as such a combination would not include two terminal apparatus that are distinct from each other, in which the first terminal apparatus can access a home page of a server to request the transfer of predetermined media data from the server to the second terminal apparatus, which is incapable of accessing the home page on its own and has the capability of storing the predetermined media data transmitted from the server apparatus, as defined in Applicant's amended claims.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 10-20 are not disclosed or suggested by the combination of TEIJI and ICHIRO et al. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejection of claims 10-20.

Applicant further submits that SEKI fails to disclose or suggest that which is lacking from the other applied references. SEKI relates to an information delivery system which includes the contents provider system 101, the communication provider system 102, and the end user mobile device 103, as shown in Fig. 1 of SEKI. The end mobile device is a mobile telephone, as shown in Fig. 2 of SEKI.

Applicant submits that SEKI does not contain any disclosure directed to the second terminal apparatus that is incapable of accessing a home page provided by a server apparatus and that has a capability of storing predetermined media data transmitted from the server apparatus. Rather, SEKI merely discloses the end user mobile device 103 including the input device 117 and the high-capacity memory 122. A

user at the end user mobile device 103 can access a home page provided by the communication provider system 102 and can obtain contents from the communication provider system 102, as shown in Figs. 4-6. The end user mobile device 103 stores the obtained contents in the high-capacity memory 122 of the end user mobile device 103 (paragraph [0012]). Thus, Applicants submits that SEKI merely discloses the end user mobile device 103 that has a capability of accessing a home page provided by a server apparatus as well as a capability of storing predetermined media data transmitted from the server apparatus.

Applicant submits that SEKI does not disclose a server apparatus which is connected to the second terminal apparatus that is incapable of accessing the home page provided by the server apparatus and having a capability of storing predetermined media data transmitted from the server apparatus.

Applicant submits that SEKI also does not disclose a server apparatus which receives a request from the first terminal apparatus, which has the capability of accessing the home page, the request being input at the first terminal via the home page provided by the server apparatus, the request including information regarding the predetermined media data and information regarding the second terminal that is incapable of accessing the home page, since SEKI does not contain any disclosure about a second terminal apparatus, let alone a second terminal apparatus that is incapable of accessing the home page provided by the server apparatus.

Additionally, Applicant submits that SEKI does not disclose a server apparatus which transmits a notification to a second terminal apparatus that is incapable of accessing the home page, in which the notification includes a value representing a size

of the predetermined media data, based on the received request, and receives a response to the notification from the second terminal apparatus that is incapable of accessing the home page.

Further, additionally, Applicant submits that SEKI does not disclose a server apparatus which transmits the predetermined media data to the second terminal apparatus that is incapable of accessing the home page when the response indicates that the second terminal apparatus that is incapable of accessing the home page can store the predetermined media data.

Thus, Applicant submits that even if one attempted to combine the teachings of TEIJI and SEKI in the manner suggested by the Examiner, such a combination would fail to render Applicant's claimed invention obvious, as such a combination would not include two terminal apparatus that are distinct from each other, in which the first terminal apparatus can access a home page of a server to request the transfer of predetermined media data from the server to the second terminal apparatus, that is incapable of accessing the home page on its own and has the capability of storing the predetermined media data transmitted from the server apparatus, as defined in Applicant's pending claims.

Therefore, it is respectfully submitted that the features recited in Applicant's claims 10-20 are not disclosed or suggested by the combination of TEIJI and SEKI. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejection of claims 10-20.

Yet additionally, the Examiner has not set forth a proper motivation for the combination of the two asserted references, in any proper combination. Applicant's

invention deals with two distinct types of terminal apparatuses, one having a capability of accessing a home page, and the other one being incapable of accessing the home page, but being capable of storing predetermined media data transmitted from the server apparatus. According to the teachings of Applicant's invention, even though the second terminal is incapable of accessing the home page, it is capable of having predetermined media data transmitted thereto when it is determined that it can store the predetermined media data. While not admitting that each of the cited references disclose the features relied upon by the Examiner (which in fact Applicant does not admit in view of the extensive remarks set forth above), nevertheless, combining the references to achieve the interplay between and combination of features as set forth in each of Applicant's claims is not motivated by the disclosures of the individual references. At the very best, the Examiner has arguably found various recited features individually in the cited references but has provided no motivation to combine them as proposed. Moreover, even if combined as proposed by the Examiner, Applicant's invention would not result from the asserted combination.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and an indication of the allowability of all the claims pending in the present application, in due course.

**SUMMARY AND CONCLUSION**

In view of the fact that none of the art of record, whether considered alone or in combination, discloses or suggests the present invention as defined by the pending claims, in view of the lack of motivation for the Examiner's proposed combination, and in the further view of the above remarks, reconsideration of the Examiner's action and allowance of the present application is respectfully requested and is believed to be appropriate.

Any amendments to the claims which have been made in this amendment, and which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

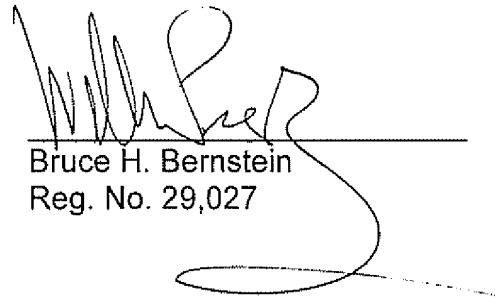
Should the Commissioner determine that an extension of time is required in order to render this response timely and/or complete, a formal request for an extension of time, under 37 C.F.R. § 1.136(a), is herewith made in an amount equal to the time period required to render this response timely and/or complete. The Commissioner is authorized to change any required extension of time of time fee under 37 C.F.R. § 1.17 to Deposit Account No.19-0089.



P20726.A14

Should the Examiner have any questions or comments regarding this Response, or the present application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,  
Masatoshi OZAWA

A handwritten signature in black ink, appearing to read 'Bruce H. Bernstein', is written over a horizontal line. The signature is stylized with a large, looping 'B' and 'S'.

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